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TECHNOLOGY CENTER 2800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Kazunobu KUWAZAWA

Serial No: 09/544,392

Filed: April 6, 2000

For: SEMICONDUCTOR DEVICE AND  
METHOD FOR MANUFACTURING  
THE SAME

Art Unit: 2826

Examiner: Nathan J. Flynn

**PETITION PURSUANT TO 37 C.F.R.**  
**§ 1.181(a) TO WITHDRAW HOLDING OF**  
**ABANDONMENT, AND CONDITIONAL**  
**PETITION PURSUANT TO 37 C.F.R.**  
**§ 1.137(b) FOR REVIVAL OF AN**  
**UNINTENTIONALLY ABANDONED**  
**APPLICATION**

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OFFICE OF PETITIONS

Box D.A.C.  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In accordance with 37 C.F.R. § 1.181(a), Applicant respectfully petitions to withdraw the holding of abandonment of the above-identified application. The Notice of Abandonment was mailed by the Office on September 5, 2002. The reason stated in the Notice was that Applicant failed to timely file a proper reply to the Office Letter mailed on August 27, 2001, which was due on September 27, 2001. However, Applicant did file a Response to Restriction Requirement and Preliminary Amendment on September 27, 2001. Applicant then filed a Status Request on March 28, 2002, including a copy of the postcard that was returned on April 19, 2000 with the Application Serial No. 09/544,392. Applicant received no correspondence concerning the restriction requirement response and preliminary

amendment that was filed at the Patent Office on September 27, 2001. As such, Applicant respectfully submits that the application never became abandoned, and that the holding of abandonment should be withdrawn.

The facts establishing the sufficiency of Applicant's Response to the Restriction Requirement dated August 27, 2001 are as follows:

- The Office mailed a Restriction Requirement on August 27, 2001. A copy of the Restriction Requirement showing the mailing date is attached hereto. The Office set a one month period for reply. Thus, the due date for reply was September 27, 2001.
- Applicant timely and fully responded to the Restriction Requirement on September 27, 2001. In response to the Restriction Requirement dated August 27, 2001, the Applicant elected for prosecution the species of Figs. 1-10 (first embodiment), on which claims 1-50 were readable. This election was made with traverse. In the Response to the Restriction Requirement, Applicant submitted that the species of Figs. 11-12 (second embodiment) in Fig. 13 (third embodiment) were not distinct from the species of the first embodiment, because generic claims 1 and 2 were not all embodiments. This submission was bona fide, and to the extent Examiner Flynn deems it not responsive, the non-responsiveness was inadvertent and unintentional. A copy of Applicant's Response to Restriction Requirement and Preliminary Amendment, and the Transmittal are attached hereto.
- On March 28, 2002, Applicant filed a Status Request. A copy of Applicant's Status Request is attached hereto.
- On September 5, 2002, the Office mailed a Notice of Abandonment claiming "This Application is abandoned in view of: Applicant's failure to timely file a proper reply to the Office letter mailed on August 27, 2001." A copy of the Notice of Abandonment is attached hereto.

Based on the foregoing, Applicant submits that Applicant fully and timely responded to the Restriction Requirement mailed on August 27, 2001. To the extent that Examiner Flynn believes that the Applicant's Response to the Restriction Requirement was not fully responsive, the undersigned respectfully requests that Examiner Flynn contact Applicant's counsel at (213) 337-6793 explaining why the Response to the Restriction Requirement was not deemed fully responsive. On the other hand, if the Office's assertion that Applicant failed to timely file a proper reply to the Office letter mailed on August 27, 2001 was erroneously transmitted in error, and the Application should never have been held abandoned, then Applicant respectfully requests that the holding of Abandonment is withdrawn.

The Office is authorized to charge any fees in connection therewith to Deposit Account No. 50-1314.

Applicant believes that the holding of abandonment should be withdrawn. However, if the Office denies the petition to withdraw the holding of abandonment, Applicant, in accordance with 37 C.F.R. § 1.137(b), respectfully and conditionally petitions for revival of the above-identified patent application which became unintentionally abandoned on September 27, 2001.

In accordance with 37 C.F.R. § 1.17(m), please charge any necessary fee for the conditional petition to revive to Deposit Account No. 50-1314.

Applicant became aware that the application had been declared abandoned upon seeing the Notice of Abandonment on or about September 9, 2002. The entire delay from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

It is believed that no extension of time is required. However, should an extension of time be necessary for further response in the above-identified application or to prevent the above-identified application from becoming abandoned, please consider this a conditional petition for such an extension of time. Please

charge any fee for such an extension of time to Deposit Account No. 50-1314. A copy of this paper is enclosed.

Applicant believes that no fee is due in connection with the instant petition. However, if it should be determined that for any reason either an insufficient fee or an excessive fee has been paid, please charge any insufficiency or credit any overpayment necessary to ensure revival of the above-identified Application to Deposit Account No. 50-1314. A copy of this Petition is enclosed.

Respectfully submitted,  
HOGAN & HARTSON L.L.P.

Date: September 20, 2002

By: Erin P. Madill  
Erin P. Madill  
Registration No. 46,893  
Attorney for Applicant(s)

Enclosures:

- Copy of Restriction Requirement dated August 27, 2001
- Copy of Applicant's Response to Restriction Requirement and Preliminary Amendment dated September 27, 2001
- Copy of Status Request filed on March 28, 2002
- Copy of Notice of Abandonment dated September 5, 2002

500 South Grand Avenue, Suite 1900  
Los Angeles, California 90071  
Phone: 213-337-6700  
Fax: 213-337-6701

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SHW/PYO JPS  
UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/544,392	04/06/00	KUWAZAWA	K 8754.0021 005317-20069

MM91/0827  
LOUIS A MAK  
500 SOUTH GRAND AVENUE SUITE 1900  
LOS ANGELES CA 90071

EXAMINER

FLYNN, N

ART UNIT

PAPER NUMBER

2826

DATE MAILED:

08/27/01

THIS MATTER DOCKETED  
FOR 9/21/01 (PR)

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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SEP 25 2002  
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 <b>Office Action Summary</b>	Application No.	Applicant(s)
	09/544,392	KUWAZAWA, KAZUNOBU
Examiner	Art Unit	
Nathan J. Flynn	2826	TEC RE

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

INTER 8002

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_ .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-82 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1-82 are subject to restriction and/or election requirement.

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## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15)  Notice of References Cited (PTO-892) 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
16)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 19)  Notice of Informal Patent Application (PTO-152)  
17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 20)  Other: \_\_\_\_\_

This application contains claims directed to the following patentably distinct species of the claimed invention: embodiment 1 shown in figures 1-10, embodiment 2 shown in figures 11-12, embodiment 3 shown in figure 13, embodiment 4 shown in figures 14-22.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Flynn whose telephone number is 703-308-6601. The examiner can normally be reached on MON-FRI 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 701-308-6601. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5389 for regular communications and 703-305-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

NJF  
August 24, 2001



Nathan Flynn  
Primary Examiner



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Dear United States Patent and Trademark Office Customer:

Quality and Customer Satisfaction are important to Technology Center 2800.

Technology Center 2800 has taken continuous quality improvement steps and efforts to ensure that the accompanying correspondence meets high quality standards, and focuses on good customer service. It is important to us that you are satisfied with the services we provide.

If the contents of the attached correspondence have any clerical omissions, e.g., missing references or pages, illegible text, or any other clerical errors, please contact us at the number below as soon as possible. We will take appropriate action to expedite the necessary corrections. Also, if you have general questions concerning any application assigned to Technology Center 2800, including status inquiries, please contact our Customer Service Center. Of course, questions concerning the merits of the application must be directed to the Examiner in charge of the particular application, then to the supervisor if appropriate.

**TC 2800 Customer Service Center**  
Crystal Plaza 4-6<sup>th</sup> floor, D-corridor

**Customer Service Representative are:**

Linda M. Hodge-Taylor	CP-4-6-D32
Wynette Stapor	CP-4-6-D30
Theodore Phillips	CP-4-6-D30

We are open to receive request for service in person, by phone 703/306-3329, or Fax 703/306-5515, from 8:30 am-5:00 p.m. each business day.

If the communication you have received has any technical or legal issues that raise concerns as to the quality and/or clarity of the Office action itself, we invite you to contact the appropriate Supervisory Primary Examiner or one of our Quality Assurance Specialists.

**Quality Assurance Specialists:**

Paul Dzierzynski	703/308-4822
Don Hajec	703/308-4075
<b>Attention: Policy on Returning Telephone Calls</b>	

A USPTO-wide customer service standards states that if a USPTO employee being called is not available they will return your calls by the next business day, or, if you request, an alternate point of contact will be provided. Technology Center 2800 is committed to meeting this service standard. If you have called any employee in our Technology Center and have not received a return phone call within one (1) business day or have not been provided another point of contact, please contact our Customer Service Center at 703/306-3329. We ensure that you will receive a return phone call, from an employee with the ability to assist you, within four (4) business hours of this contact.

Any matter not satisfactorily resolved by the listed resources should be brought to the attention of the appropriate Director listed below.

**We appreciate your assistance in helping us help you.**

**Directors, Technology Center 2800**  
Semi-conductors, Electrical, Optical Systems & Components

Rolf G. Wille	703/306-3431	2810/2820
Stewart J. Levy	703/308-0658	2830/2840
Howard N. Goldberg	703/306-3431	2850/2860
Janice A. Falcone	703/308-0530	2870/2880

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UNITED STATES DEPARTMENT OF COMMERCE  
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Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,392	04/06/2000	Kazunobu Kuwazawa	005317-20069	8777 8754.0021
26021	7590	09/05/2002		
HOGAN & HARTSON L.L.P. 500 S. GRAND AVENUE SUITE 1900 LOS ANGELES, CA 90071-2611				
EXAMINER FLYNN, NATHAN J				
ART UNIT 2826				
PAPER NUMBER DATE MAILED: 09/05/2002				

THIS MATTER DOCKETED  
FOR 9/16/02

(REPLY DUE ASAP!)

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SEP 09 2002

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**Notice of Abandonment**

Application No.

09/544,392

Applicant(s)

KUWAZAWA, KAZUNOBU

Examiner

Art Unit

Nathan J. Flynn

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on 8-27-01.
  - (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d)  No reply has been received.
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c)  The issue fee and publication fee, if applicable, has not been received.
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b)  No corrected drawings have been received.
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7.  The reason(s) below:

  
**NATHAN J. FLYNN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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817549002125 2002  
SEP 25 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Kazunobu KUWAZAWA

Serial No: 09/544,392

Filed: April 6, 2000

For: SEMICONDUCTOR DEVICE AND  
METHOD FOR MANUFACTURING  
THE SAME

Art Unit: 2826

Examiner: Flynn, N.

STATUS REQUEST

Box Status Inquiry  
Commissioner for Patents  
Washington, D.C. 20231

I hereby certify that this correspondence  
is being deposited with the United States  
Postal Service with sufficient postage as  
first class mail in an envelope addressed  
to:

Commissioner for Patents  
Washington D.C. 20231, on

March 28, 2002

Date of Deposit

Kathy Browning

Name

Kathy Browning 03/28/02

Signature

Date

Dear Sir:

This application was filed on April 6, 2000 and receipt acknowledged by the Patent Office in that the postcard was returned on April 19, 2000 with the application serial number 09/544,392. On September 27, 2001, a Response to Restriction Requirement and Preliminary Amendment was filed with the Patent Office, but we received no correspondence concerning the Amendment and no further papers have been received in this case.

Please send the undersigned a Status Report on this application.

Respectfully submitted,  
HOGAN & HARTSON L.L.P.

By: Erin P. Madill  
Erin P. Madill  
Registration No. 46,893  
Attorney for Applicant(s)

Date: March 27, 2002

500 South Grand Avenue Suite 1900  
Los Angeles, California 90071  
Telephone: 213 337-6700  
Facsimile: 213 337-6701

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09-23-02

DAC

PATENT  
Attorney Docket No: 81754.0021

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Kazunobu KUWAZAWA

Serial No: 09/544,392

Filed: April 6, 2000

For: SEMICONDUCTOR DEVICE AND METHOD FOR  
MANUFACTURING THE SAME

Art Unit: 2826

Examiner: Nathan J. Flynn

CERTIFICATE OF MAILING VIA U.S. EXPRESS MAIL

"Express Mail" Mailing Label No. EL715815417US

Date of Deposit: September 20, 2002

Box DAC  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I hereby certify that

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- Petition Pursuant To 37 C.F.R § 1.181(A) To Withdraw Holding Of Abandonment, And Conditional Petition Pursuant To 37 C.F.R § 1.137(B) For Revival Of An Unintentionally Abandoned Application
- Copy of Restriction Requirement dated August 27, 2001
- Copy of Applicant's Response to Restriction Requirement and Preliminary Amendment dated September 27, 2001
- Copy of Status Request filed on March 28, 2002
- Copy of Notice of Abandonment dated September 5, 2002
- Return Postcard

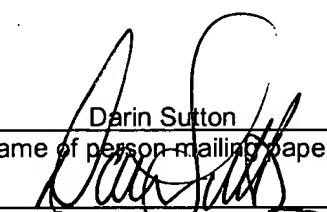
are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service with sufficient postage under 37 C.F.R. § 1.10 on the date indicated above and are addressed to:

Box DAC  
Assistant Commissioner for Patents  
Washington, D.C. 20231.

Date: September 20, 2002

Hogan & Hartson, LLP  
500 South Grand Avenue, Suite 1900  
Los Angeles, California 90071  
Telephone: 213-337-6700  
Facsimile: 213-337-6701

Darin Sutton  
Name of person mailing papers

  
Signature